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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

OMER LEVY,

Plaintiff,

-against-

**RECEIVABLES PERFORMANCE
MANAGEMENT, LLC,**

Defendants.

Civil Action No. 11-cv-3155 (SLT)

**ANSWER TO COMPLAINT,
AFFIRMATIVE DEFENSES,
JURY DEMAND AND
CERTIFICATION**

Trial by Jury Demanded

Defendant, RECEIVABLES PERFORMANCE MANAGEMENT, LLC (“RPM”), by its attorneys, Hodgson Russ LLP, as and for its Answer to the Complaint does state as follows:

I. INTRODUCTION

1. Denies the allegations contained in Paragraph 1.
2. With respect to the allegations contained in Paragraph 2, states that the aforesaid paragraph sets forth legal conclusions to which no response is required and further denies having knowledge and information sufficient to form a belief as to any factual allegations contained therein.
3. With respect to the allegations contained in Paragraphs 3, states that the aforesaid paragraph sets forth legal conclusions to which no response is required and further denies having knowledge and information sufficient to form a belief as to any factual allegations contained therein.

II. JURISDICTION AND VENUE

4. With respect to the allegations contained in Paragraph 4, states that the aforementioned paragraph sets forth legal conclusions to which no response is required and further denies having knowledge and information sufficient to form a belief as to any factual allegations contained therein.

III. PARTIES

5. Denies having knowledge and information sufficient to form a belief as to the allegations in Paragraph 5.

6. Denies the allegations in Paragraph 6.

7. With respect to the allegations contained in Paragraph 7, states that the aforementioned paragraph sets forth legal conclusions to which no response is required and further denies having knowledge and information sufficient to form a belief as to any factual allegations contained therein.

8. With respect to the allegations contained in Paragraph 8, states that the aforementioned paragraph sets forth legal conclusions to which no response is required and further denies having knowledge and information sufficient to form a belief as to any factual allegations contained therein.

9. With respect to the allegations contained in Paragraph 9, states that the aforementioned paragraph sets forth legal conclusions to which no response is required and further denies having knowledge and information sufficient to form a belief as to any factual allegations contained therein.

10. Denies having knowledge and information sufficient to form a belief as to the allegations in Paragraph 10 and, therefore, denies it.

11. Denies having knowledge and information sufficient to form a belief as to the allegations in Paragraph 11 and, therefore, denies it.

IV. FACTUAL ALLEGATIONS

12. Defendant repeats and reiterates its responses to Paragraphs 1 through 11 as if fully set forth herein.

13. Denies having knowledge and information sufficient to form a belief as to the allegations in Paragraph 13 and, therefore, denies it.

14. Denies having knowledge and information sufficient to form a belief as to the allegations in Paragraph 14 and, therefore, denies it.

15. Denies the allegations in Paragraph 15.

16. Denies the allegations in Paragraph 16.

17. Denies the allegations in Paragraph 17.

18. Denies the allegations in Paragraph 18.

19. Denies the allegations in Paragraph 19.

20. Denies the allegations in Paragraph 20.

21. Denies the allegations in Paragraph 21.

22. Denies the allegations in Paragraph 22.

23. Denies the allegations in Paragraph 23.

24. Denies the allegations in Paragraph 24.

25. Denies the allegations in Paragraph 25.

26. Denies the allegations in Paragraph 26.

27. Denies having knowledge and information sufficient to form a belief as to the

allegations in Paragraph 27 and, therefore, denies it.

28. Denies the allegations in Paragraph 28.

V. CAUSE OF ACTION UNDER THE FAIR DEBT COLLECTION

PRACTICES ACT

29. Defendant repeats and reiterates its responses in Paragraphs 1 through 28 as if fully set forth herein.

30. Denies the allegations in Paragraph 30.

VI. CAUSES OF ACTION UNDER THE TELEPHONE CONSUMER

PROTECTION ACT

31. Defendant repeats and reiterates its responses in Paragraphs 1 through 30 as if fully set forth herein.

32. Denies the allegations in Paragraph 32.

33. Denies the allegations in Paragraph 33.

34. Denies the allegations in Paragraph 34.

35. Denies the allegations in Paragraph 35.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The Complaint filed herein fails to state any Cause of Action upon which relief can be granted and defendant reserves the right to move at or before the time of trial for a summary disposition of same.

SECOND AFFIRMATIVE DEFENSE

This defendant reserves the right to assert all applicable Statutes of Limitations or Repose.

THIRD AFFIRMATIVE DEFENSE

Each Cause of Action is barred by the doctrine of unclean hands and/or in *pari delicto*.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff expressly consented to contact by defendant through use of his cell phone.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff failed to mitigate damages.

JURY DEMAND

The defendant, RECEIVABLES PERFORMANCE MANAGEMENT, LLC, demands a trial by jury on all issues.

WHEREFORE, defendant, RECEIVABLES PERFORMANCE MANAGEMENT, LLC respectfully requests that this Court enter a judgment:

- a. Dismissing, with prejudice the Complaint;
- b. Awarding costs and disbursements; and
- c. Awarding such other and further relief as the Court deems proper.

Dated: August 17, 2011

Alba Alessandro
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